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96TH CONGRESS
1ST SESSION

H. R. 261

To reorganize the intelligence community of the executive branch of the Government, create an Intelligence Research and Analysis Agency, and prevent future intelligence abuses by Federal agencies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 15, 1979

Mr. DELLUMS introduced the following bill; which was referred jointly to the Committees on Armed Services, the Judiciary, Permanent Select Committee on Intelligence, and Ways and Means

A BILL

To reorganize the intelligence community of the executive branch of the Government, create an Intelligence Research and Analysis Agency, and prevent future intelligence abuses by Federal agencies, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That this Act, together with the following table of contents,
- 4 may be cited as the "Omnibus Intelligence Community
- 5 Reorganization and Reform Act of 1979".

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1 TITLE I—FOREIGN INTELLIGENCE COMMUNITY

2 PART A—NATIONAL SECURITY COUNCIL

3 MEMBERSHIP

4 SEC. 101. Section 101 (a) of the National Security Act
5 of 1947 (50 U.S.C. 402 (a)) is amended—

6 (1) by inserting after the third sentence of such
7 section the following new sentence: "Under the direc-
8 tion of the President, the Council shall provide policy
9 guidance for all the intelligence activities of the United
10 States."; and

11 (2) by redesignating paragraphs (5), (6), and
12 (7) as paragraphs (7), (8), and (9), respectively,
13 and by inserting the following new paragraphs after
14 paragraph (4):

15 " (5) the Director of Central Intelligence;

16 " (6) in an advisory capacity, the Attorney General
17 of the United States;".

1 COMMITTEE ON FOREIGN INTELLIGENCE

2 SEC. 102. (a) There is established within the National
3 Security Council a committee to be known as the Committee
4 on Foreign Intelligence (hereinafter in this section referred
5 to as the "Committee").

6 (b) The Committee shall be composed of—

7 (1) the Director of Central Intelligence, who shall
8 be the Chairman; and

9 (2) one representative of each of the following:

10 (A) the Secretary of State;

11 (B) the Secretary of Defense;

12 (C) the Director of the Central Intelligence
13 Agency;

14 (D) the Director of the Office of Management
15 and Budget;

16 (E) the Director of the Intelligence Research
17 and Analysis Agency;

18 (F) the Director of the National Security
19 Agency; and

20 (G) the Assistant to the President for National
21 Security affairs.

22 (c) The function of the Committee shall be to assist
23 the Director of Central Intelligence in carrying out his func-
24 tions under section 111. In providing such assistance, the
25 Committee shall—

1 (1) establish procedures to ensure that budget prep-
2 aration and intelligence resource allocations conform to
3 the priorities established by the Director of Central
4 Intelligence and the Committee; and

5 (2) provide continuing guidance to, and oversight
6 of, intelligence agencies to ensure compliance with policy
7 directions of the President, the National Security Coun-
8 cil, and the Director of Central Intelligence.

9 FOREIGN ACTIVITIES COMMITTEE

10 SEC. 103. (a) There is established within the National
11 Security Council a committee to be known as the Foreign
12 Activities Committee (hereinafter in this section referred
13 to as the "Committee").

14 (b) (1) The Committee shall be composed of—

15 (A) the Secretary of State, who shall be the Chair-
16 man of the Committee;

17 (B) the Secretary of Defense;

18 (C) the Director of Central Intelligence;

19 (D) the Director of the Central Intelligence
20 Agency;

21 (E) the Director of the National Security Agency;

22 (F) the Director of the Intelligence Research and
23 Analysis Agency;

24 (G) the Chairman of the Joint Chiefs of Staff;

1 (H) the Assistant to the President for National
2 Security Affairs; and

3 (I) in an advisory capacity, the Attorney Gen-
4 eral of the United States.

5 (2) With respect to any discussion by the Committee
6 concerning a specific intelligence collection activity or pro-
7 posed intelligence collection activity, the membership of
8 the Committee shall include, in an advisory capacity, the
9 ambassador of the United States to any country to be
10 affected by such intelligence collection activity and the As-
11 sistant Secretary of State for the region in which any such
12 country is located.

13 (3) Each member of the Committee shall designate
14 a representative to attend any meeting of the Committee
15 which such member is unable to attend.

16 (c) (1) The function of the Committee shall be to
17 advise the President with respect to sensitive intelligence
18 collection activities of intelligence agencies.

19 (2) Subject to section 161 (e), a sensitive intelligence
20 collection activity may be initiated or undertaken by or at
21 the direction of any intelligence agency only upon the writ-
22 ten authorization of the President and in accordance with
23 the procedures established in subsection (d).

24 (d) (1) Any intelligence agency which proposes to

1 undertake a new sensitive intelligence collection activity
2 shall, before initiating such activity, submit a proposal for
3 such activity to the Committee. Any such proposal shall
4 include a report from such agency providing a careful and
5 systematic analysis of—

6 (A) the premises underlying the proposed activity;

7 (B) the nature, extent, purpose, anticipated risks,
8 probability of success, and expected costs of such
9 activity;

10 (C) evidence that the objectives of such activity
11 cannot be achieved by any other means; and

12 (D) the legality of the proposed activity under
13 international law and the treaties of the United States.

14 (2) (A) Before the President approves or disapproves
15 such activity, the Committee shall submit a recommendation
16 in writing to the President with respect to the desirability
17 of initiating such activity.

18 (B) Any recommendation under subparagraph (A)
19 shall be made only upon a majority vote of those present
20 after consideration of the proposed activity in a formal meet-
21 ing of the Committee which shall be attended by each mem-
22 ber of the Committee. In the event that any member is
23 unable to attend such a meeting, the representative desig-
24 nated by such member under subsection (b) (3) shall
25 attend in such member's place, but no such meeting may

1 take place unless a majority of the members specified in
2 subsection (b) (1) are present.

3 (C) Any recommendation under subparagraph (A)
4 shall be accompanied by the individual written assessment
5 of each member of the Committee with respect to the pro-
6 posed activity. Such assessment shall briefly state such mem-
7 ber's views of the likelihood of success, the potential bene-
8 fits of success, and the potential damage of failure or ex-
9 posure of the proposed activity, the risk of the proposed
10 activity weighed against its potential benefits, and alter-
11 nate ways of accomplishing the objective which the pro-
12 posed activity, if successful, will accomplish. The assessment
13 of the Attorney General with respect to any such activity
14 shall be limited to the legality of the proposed activity under
15 international law and the treaties of the United States.

16 (e) The Committee shall conduct an annual review of
17 each ongoing sensitive intelligence collection activity and
18 shall make a recommendation in writing to the President
19 with respect to the continuation or termination of each
20 activity.

21 (f) For purposes of this section, the term "sensitive
22 intelligence collection activity," means any intelligence col-
23 lection activity which if discovered or revealed might cause
24 harm or embarrassment to the United States or adverse reac-
25 tion from other countries.

1 COUNTERINTELLIGENCE COMMITTEE

2 SEC. 104. (a) There is established within the National
3 Security Council a committee to be known as the Counter-
4 intelligence Committee.

5 (b) The Counterintelligence Committee shall be com-
6 posed of—

7 (1) the Attorney General of the United States, who
8 shall be the chairman;

9 (2) one of the two Deputy Secretaries of Defense,
10 as designated by the Secretary of Defense;

11 (3) the Director of Central Intelligence;

12 (4) the Director of the Federal Bureau of
13 Investigation;

14 (5) the Director of the Central Intelligence
15 Agency; and

16 (6) the Assistant to the President for National
17 Security Affairs.

18 (c) The function of the Counterintelligence Committee
19 shall be to coordinate and review counterintelligence activ-
20 ities. As part of such coordination and review, such commit-
21 tee shall ensure that all such counterintelligence activities
22 are conducted in strict conformity with the Constitution and
23 the laws of the United States and of the several States and
24 the political subdivision thereof and shall make an annual
25 report to the appropriate committees of Congress certifying

1 that such activities have been so conducted, or, if the Coun-
2 terintelligence Committee has reason to believe that any
3 such activity has not been so conducted, certifying which
4 such activities have been so conducted and which have not.

5 (d) The Counterintelligence Committee shall review the
6 standards established by each intelligence agency under sec-
7 tion 177 for the recruitment of intelligence agents.

8 (e) The Counterintelligence Committee shall direct (1)
9 the protection of foreign intelligence assets which enter the
10 United States, and (2) the establishment of the actual status
11 of any alien purporting to be a defector and seeking asylum
12 in the United States.

13 PART B—OFFICE OF THE DIRECTOR OF CENTRAL
14 INTELLIGENCE

15 ESTABLISHMENT OF OFFICE

16 SEC. 111. (a) (1) There is established as an independ-
17 ent establishment in the executive branch of the Govern-
18 ment an Office of the Director of Central Intelligence
19 (hereinafter in this section referred to as the "Office"). The
20 Office shall be headed by a Director of Central Intelligence
21 (hereinafter in this section referred to as the "Director").

22 (2) The Director shall be appointed by the President,
23 by and with the advice and consent of the Senate, from
24 among individuals in civilian life. No individual shall serve
25 as Director for a period exceeding eight years.

1 (b) (1) The Office shall coordinate and oversee the
2 entire foreign intelligence community of the United States.

3 (2) The Director shall be the chief foreign intelligence
4 officer of the United States and shall be responsible for super-
5 vision and control of all foreign intelligence agencies of the
6 United States. The Director shall have exclusive responsi-
7 bility and authority for producing national intelligence, in-
8 cluding national intelligence estimates, for the President and
9 the Congress.

10 (c) In carrying out his functions under this Act, the
11 Director is authorized to—

12 (1) appoint such officers and employees as may be
13 necessary to perform the functions now or hereafter
14 vested in him and to prescribe their duties;

15 (2) review any intelligence activity and any intel-
16 ligence resource allocation of any department or agency
17 of the United States, including intelligence activities
18 and resource allocations relating to tactical military
19 intelligence;

20 (3) obtain the assistance of other entities within
21 the foreign intelligence community in producing national
22 intelligence;

23 (4) obtain services as authorized by section 3109
24 of title 5 of the United States Code, at rates not to exceed
25 the rate prescribed for grade GS-18 of the General

1 Schedule by section 5332 of title 5 of the United States
2 Code; and

3 (5) enter into contracts and other arrangements for
4 studies, analyses, and other services with public agencies
5 and with private persons, organizations, or institutions,
6 and make such payments as he deems necessary to carry
7 out the provisions of this Act without legal considera-
8 tion, without performance bonds, and without regard to
9 section 3709 of the Revised Statutes (41 U.S.C. 5).

10 (d) The Director shall—

11 (1) establish national intelligence requirements for
12 the entire intelligence community;

13 (2) direct and coordinate preparation, develop-
14 ment, and submission to the Congress of a national in-
15 telligence budget, which shall include elements of the
16 budgets of the Armed Forces and other components of
17 the Department of Defense relating to intelligence and
18 which shall set forth a specific and detailed budget state-
19 ment for each type of intelligence activity conducted
20 in a foreign country;

21 (3) conduct a comprehensive inquiry into the
22 causes of any intelligence failure, including inadequate
23 intelligence collection, inadequate directives for intelli-
24 gence collection, analytical bias, duplication, unusable
25 technical output, excessive protection of sensitive infor-

1 mation and material, and withholding of information
2 by senior officials from other senior officials with an
3 operational requirement for such information, and shall
4 report the results of any such inquiry to the President
5 and the appropriate committees of Congress;

6 (4) with the assistance of the Committee on For-
7 eign Intelligence, provide guidance to the head of each
8 national intelligence agency for the management of the
9 intelligence operations of such agency;

10 (5) make available to any appropriate committee
11 of Congress, upon the request of such committee, any
12 finished intelligence estimate prepared by or for the
13 Director; and

14 (6) transmit to each of the appropriate committees
15 of Congress any report received by the Director from
16 the Inspector General of the Intelligence Community
17 or from the General Counsel of the Central Intelligence
18 Agency with respect to any suspected violation of law
19 by an intelligence agency.

20 (e) The Director shall be compensated at the rate of
21 basic pay payable for positions to which section 5313 of
22 title 5, United States Code, is applicable.

1 INSPECTOR GENERAL OF THE INTELLIGENCE
2 COMMUNITY

3 SEC. 112. (a) There shall be in the Office of the
4 Director of Central Intelligence an Inspector General of
5 the Intelligence Community (hereinafter in this section
6 referred to as the "Inspector General"), who shall be
7 appointed by the President, by and with the advice and con-
8 sent of the Senate.

9 (b) The Inspector General shall have access to all
10 information held by any intelligence agency and shall have
11 the authority to review all activities of each intelligence
12 agency and to investigate any possible or potential mis-
13 conduct by any intelligence agency.

14 (c) The Inspector General shall report any operation
15 or activity of an intelligence agency which appears to
16 the Inspector General to have been conducted in violation
17 of the Constitution or the laws of the United States or of
18 any State or any political subdivision thereof to the Attorney
19 General of the United States, the Director of Central Intel-
20 ligence, and, except when the Inspector General deems it
21 inappropriate, the head of the intelligence agency
22 involved, and to the appropriate committees of Congress.

1 Each intelligence agency shall report all instances of
2 misconduct and all allegations of misconduct to the Director
3 of Central Intelligence. Nothing in this subsection shall limit
4 any agency in conducting an investigation of its own opera-
5 tions and activities and in maintaining its own staff for such
6 a purpose.

7 (d) The Inspector General shall submit a report to the
8 Congress each year on his activities and the operation of his
9 office during the preceding year.

10 NATIONAL INTELLIGENCE BOARD

11 SEC. 113. (a) A National Intelligence Board is estab-
12 lished within the Office of the Director of Central Intelli-
13 gence. The Board shall consist of seven persons appointed by
14 the President, by and with the advice and consent of the
15 Senate, from civilian life outside the Government. The Board
16 shall advise the Director of Central Intelligence with respect
17 to supervision and control of intelligence agencies and shall
18 review finished intelligence estimates.

19 (b) Each member of the Board shall, while serving on
20 business of the Board, be entitled to receive compensation
21 at a rate not to exceed the daily rate prescribed for GS-18
22 of the General Schedule under section 5332 of title 5, United
23 States Code, including traveltime, and, while so serving away
24 from his home or regular place of business, he may be al-
25 lowed travel expenses, including per diem in lieu of sub-

1 sistence in the same manner as the expenses authorized by
2 section 5703 (b) of title 5, United States Code, for persons
3 in Government service employed intermittently.

4 DIRECTION OF FOREIGN INTELLIGENCE IN TIME OF WAR

5 SEC. 114. The Secretary of Defense shall have authority
6 over all foreign intelligence operations and activities of the
7 United States when the United States is in a state of war
8 declared by the Congress and may during such state of war
9 direct the Central Intelligence Agency to carry out espionage
10 and covert action against any enemy named by such declara-
11 tion of war until such state of war is terminated by a peace
12 treaty or an armistice.

13 PART C—CENTRAL INTELLIGENCE AGENCY

14 DIRECTOR AND DEPUTY DIRECTOR

15 SEC. 121. (a) (1) Subsection (a) of section 102 of
16 the National Security Act of 1947 (50 U.S.C. 403 (a)) is
17 amended to read as follows:

18 “(a) (1) There is hereby established under the National
19 Security Council and the Director of Central Intelligence a
20 Central Intelligence Agency (hereinafter in this section
21 referred to as the ‘Agency’) with a Director of the Central
22 Intelligence Agency (hereinafter in this section referred to
23 as the ‘Director’) who shall be the head thereof, and with a
24 Deputy Director of the Central Intelligence Agency (here-
25 inafter in this section referred to as the ‘Deputy Director’)

1 who shall act for, and exercise the powers of, the Director
2 during his absence or disability. The Director and the
3 Deputy Director shall be appointed by the President, by and
4 with the advice and consent of the Senate, from among
5 individuals in civilian life; except that at no time shall the
6 two positions of Director and Deputy Director be occupied
7 simultaneously by individuals who were both officers or em-
8 ployees of the Agency at any time during the immediately
9 preceding five years.

10 “(2) No individual may serve as Director for more than
11 a total of eight years.”.

12 (2) If the individual who is serving as Director of
13 Central Intelligence immediately before the enactment of
14 this Act is a civilian, the eight-year limitation established
15 by the amendment made by paragraph (1) shall begin to
16 run with respect to such individual's service as Director of
17 the Central Intelligence Agency on the date of enactment
18 of this Act.

19 (3) Subsection (b) of section 102 of the National
20 Security Act of 1947 (50 U.S.C. 403(b)) is repealed.

21 (b) Section 102(c) of such Act (50 U.S.C. 403(c))
22 is amended by striking out “of Central Intelligence”.

23 (c) Section 303(a) of the National Security Act of
24 1947 (50 U.S.C. 405(a)) is amended by inserting “the

1 Director of the Central Intelligence Agency,” after “the
2 Director of the Office of Emergency Preparedness,”.

3 (d) Sections 1 and 2 of the Central Intelligence Agency
4 Act of 1949 (50 U.S.C. 403a-403j) are amended by strik-
5 ing out “Director of Central Intelligence” and inserting in
6 lieu thereof “Director of the Central Intelligence Agency”.

7 (e) Subsections (c) and (d) of section 3 of the Act of
8 August 1, 1956, entitled “An Act to require the registration
9 of certain persons who have knowledge or have received
10 instruction or assignment in the espionage, counterespionage,
11 or sabotage service or tactics of a foreign government or for-
12 eign political party, and for other purposes.” (50 U.S.C.
13 852) are amended by striking out “Director of Central
14 Intelligence” and inserting in lieu thereof “Director of the
15 Central Intelligence Agency”.

16 (f) Subsection e. of section 142 of the Atomic Energy
17 Act of 1954 (42 U.S.C. 2162 (e)) is amended by striking
18 out “to be necessary to carry out the provisions of section
19 102 (d) of the National Security Act of 1947, as amended,
20 and”.

21 (g) Section 111 (2) of the Central Intelligence Agency
22 Retirement Act of 1964 for Certain Employees (50 U.S.C.
23 403 note) is amended by striking out “Director of Central

1 Intelligence" and inserting in lieu thereof "Director of the
2 Central Intelligence Agency".

3 (h) Subchapter II of chapter 53 of title 5, United
4 States Code (relating to Executive Schedule pay rates), is
5 amended—

6 (1) by striking out paragraph (15) of section 5313
7 and inserting in lieu thereof the following:

8 "(15) Director of the Central Intelligence
9 Agency."; and

10 (2) by striking out paragraph (35) of section 5314
11 and inserting in lieu thereof the following:

12 "(35) Deputy Director of the Central Intelligence
13 Agency.".

14 FUNCTIONS

15 SEC. 122. Section 102 (d) of the National Security
16 Act of 1947 (50 U.S.C. 403 (d)) is amended to read as
17 follows:

18 "(d) (1) In the absence of a congressional declaration
19 of war, the functions of the Agency, under the direction
20 of the National Security Council and the Director of Central
21 Intelligence, shall be the conduct of foreign counterintelli-
22 gence activities outside the United States.

23 "(2) The Agency shall have no functions, and shall
24 carry out no activities, other than functions and activities

1 authorized under paragraph (1). In particular, the Agency
2 may not—

3 “(A) carry out, directly or indirectly, within the
4 United States, either on its own or in cooperation or
5 conjunction with any other department, agency, orga-
6 nization, or individual, any law enforcement operation
7 or activity or any internal security operation or activity;

8 “(B) provide assistance of any kind, directly or
9 indirectly, to any department or agency of the United
10 States, to any department or agency of any State or
11 local government, or to any officer or employee of any
12 such department or agency, for law enforcement opera-
13 tions or activities within the United States except that
14 the Agency may supply information relevant to an on-
15 going criminal investigation in response to a written
16 request for such information from the prosecuting at-
17 torney responsible for such investigation; and

18 “(C) in the absence of a congressional declara-
19 tion of war, engage in any operation or activity in any
20 foreign country which has an objective other than
21 counterintelligence.”.

22 SECURITY OF AGENCY FACILITIES

23 SEC. 123. Section 102 of the National Security Act
24 of 1947 (50 U.S.C. 403) is further amended by striking out

1 subsection (e) and inserting in lieu thereof the following
2 new subsection:

3 “(e) (1) The Director shall be responsible for the se-
4 curity of Central Intelligence Agency installations inside the
5 United States and the personnel, operations, and records of
6 the Agency. In discharging such responsibilities, the Director
7 may—

8 “(A) conduct physical surveillance of individuals
9 on the grounds of any Central Intelligence Agency
10 installation; and

11 “(B) upon reasonable suspicion that a violation of
12 security has occurred or is occurring, conduct physical
13 surveillance, for a period not to exceed fifteen days, of
14 any employee of the Agency, but any such surveil-
15 lance shall be conducted only upon the written author-
16 ization of the Director of Central Intelligence and shall
17 be strictly limited to such employee and, to the extent
18 necessary for identification only, to individuals with
19 whom such employee comes in contact.

20 “(2) If the Director, after conducting surveillance of
21 an employee under paragraph (1) (B), has reason to believe
22 that a crime has been committed, he shall refer all relevant
23 information to the Federal Bureau of Investigation, which
24 shall have exclusive authority for the investigation of any
25 offense against the United States which may have occurred.

23

1 If the Director does not have reason to believe that a crime
2 has been committed, any investigation of such employee shall
3 be promptly terminated at the end of the fifteen-day period
4 prescribed by such paragraph.

5 “(3) (A) Except as provided in subparagraph (B),
6 the Agency shall not collect information outside the United
7 States concerning any American.

8 “(B) The Agency may collect information outside the
9 United States concerning an American—

10 “(i) to the same extent that it may under para-
11 graph (1) collect such information within the United
12 States; and

13 “(ii) at the request of the Department of Justice,
14 to assist such Department in a criminal investigation
15 of an American suspected of espionage activities, if
16 such investigation has been initiated, and is being con-
17 ducted, in accordance with law.

18 “(4) The Inspector General of the Intelligence Com-
19 munity and the General Counsel of the Central Intelligence
20 Agency shall each conduct an annual review of each activity
21 of the Agency conducted under paragraph (1) during the
22 preceding year and shall certify to the Attorney General of
23 the United States, the Director of Central Intelligence, and
24 the Director either that such activities have been conducted
25 in compliance with the Constitution and applicable statutes,

1 Executive orders, and regulations or, if it appears that any
2 such activity may have been conducted in violation of the
3 Constitution or any Federal statute, Executive order, or
4 regulation, or any statute of any State or political subdivi-
5 sion thereof, that such a violation may have occurred.

6 “(5) Nothing in this subsection shall be deemed to
7 authorize the Director of the Central Intelligence Agency to
8 violate, or to authorize the violation of, any Federal statute
9 or any State or political subdivision thereof.

10 “(6) For purposes of this subsection, the term ‘Amer-
11 ican’ means any citizen of the United States, any alien law-
12 fully admitted to the United States for permanent residence,
13 and any unincorporated association composed primarily of
14 citizens of the United States and aliens lawfully admitted to
15 the United States for permanent residence.”.

16 GENERAL COUNSEL

17 SEC. 124. Section 102 of the National Security Act of
18 1947 (50 U.S.C. 403) is further amended by adding at the
19 end thereof the following new subsection:

20 “(g) (1) There shall be in the Central Intelligence
21 Agency a General Counsel, who shall be appointed by the
22 President, by and with the advice and consent of the Senate.

23 “(2) The General Counsel shall have access to all in-
24 formation held by the Agency and shall have the authority
25 to review all activities of the Agency.

1 “(3) The General Counsel shall report any action of
2 the Agency which appears to the General Counsel to have
3 been conducted in violation of the Constitution or the laws
4 of the United States or of any State or political subdivision
5 thereof to the Attorney General of the United States, the
6 Director of Central Intelligence, the Inspector General of
7 the Intelligence Community, and, except when the General
8 Counsel deems it inappropriate, to the Director.”.

9 CENTRAL INTELLIGENCE AGENCY APPROPRIATIONS
10 AND EXPENDITURES

11 SEC. 125. Section 8 (b) of the Central Intelligence
12 Agency Act of 1949 (50 U.S.C. 403j (b)) is amended by
13 striking out “to be accounted for” and all that follows and
14 inserting in lieu thereof “shall be made from reserve or con-
15 tingency funds only after specific approval of such expendi-
16 tures by the Director of Central Intelligence and the appro-
17 priate committees of Congress has been obtained.”.

18 PART D—INTELLIGENCE RESEARCH AND ANALYSIS
19 AGENCY

20 ESTABLISHMENT OF AGENCY

21 SEC. 131. (a) There is established under the National
22 Security Council and the Director of Central Intelligence
23 an Intelligence Research and Analysis Agency (hereinafter
24 in this part referred to as the “Agency”) which shall assume
25 the functions previously exercised by the Central Intelligence

1 Agency with respect to the production, analysis, and dis-
2 semination of foreign intelligence. The Agency shall be
3 headed by a Director of Intelligence Research and Analysis
4 (hereinafter in this part referred to as the "Director"), and
5 there shall be a Deputy Director of Intelligence Research
6 and Analysis (hereinafter in this part referred to as the
7 "Deputy Director") who shall act for, and exercise the
8 functions of, the Director during his absence or disability.

9 (b) (1) The Director and Deputy Director shall be
10 appointed by the President, by and with the advice and con-
11 sent of the Senate, from among individuals in civilian life.

12 (2) No individual shall serve as Director or Deputy
13 Director for a period exceeding eight years.

14 (3) (A) The Director shall be compensated at the rate
15 of basic pay payable for positions to which section 5313
16 of title 5, United States Code, is applicable.

17 (B) The Deputy Director shall be compensated at the
18 rate of basic pay payable for positions to which section
19 5314 of title 5, United States Code, is applicable.

20 FUNCTIONS OF THE AGENCY

21 SEC. 132. (a) It shall be the duty of the Agency, under
22 the direction of the National Security Council and the Direc-
23 tor of Central Intelligence, to correlate, evaluate, and produce
24 finished intelligence relating to the national security and to
25 provide for the appropriate dissemination of such intelligence

1 within the Government using, where appropriate, existing
2 agencies and facilities.

3 (b) As authorized by the Director of Central Intelli-
4 gence, the Agency may direct the National Security Agency,
5 the National Reconnaissance Office, and any other intelli-
6 gence agency with responsibility for the collection of intel-
7 ligence to carry out particular intelligence collection activi-
8 ties, but no such direction may require the intelligence
9 collection agency involved to violate any law.

10 ADMINISTRATIVE PROVISIONS

11 SEC. 133. (a) In carrying out his functions under this
12 Act, the Director is authorized to—

13 (1) appoint such officers and employees as may be
14 necessary to perform the functions now or hereafter
15 vested in him and to prescribe their duties;

16 (2) obtain services as authorized by section 3109 of
17 title 5, United States Code, at rates not to exceed the
18 rate in effect for grade GS-18 of the General Schedule,
19 and

20 (3) enter into contracts and other arrangements for
21 studies, analyses, and other services with public agencies
22 and with private persons, organizations, or institutions,
23 and make such payments, as he considers necessary to
24 carry out the provisions of this Act without legal con-
25 sideration, without performance bonds, and without

1 regard to section 3709 of the Revised Statutes of the
2 United States (41 U.S.C. 5).

3 (b) So much of the positions, personnel, assets, liabili-
4 ties, contracts, property, records, and unexpended balances
5 of appropriations, authorizations, allocations, and other funds
6 of the Central Intelligence Agency as the Director of the
7 Office of Management and Budget determines to be em-
8 ployed, held, used, arising from, or to be made available
9 in connection with the functions, powers, and duties of the
10 Central Intelligence Agency under that portion of section
11 102(d) (3) of the National Security Act of 1947 (50
12 U.S.C. 403(d) (3)) preceding the first proviso of such
13 section, as in existence immediately before the enactment
14 of this Act, shall be transferred to the Director.

15 PART E—NATIONAL SECURITY AGENCY
16 ESTABLISHMENT OF NATIONAL SECURITY AGENCY OUT-
17 SIDE THE DEPARTMENT OF DEFENSE

18 SEC. 141. The National Security Agency (hereinafter
19 in this part referred to as the "Agency") is hereby removed
20 from the Department of Defense and established as an inde-
21 pendent establishment in the executive branch of the Gov-
22 ernment. The functions, powers, and duties of the Secretary
23 of Defense with respect to the Agency are transferred to the
24 Director of the National Security Agency.

FUNCTIONS

1

2 SEC. 142. (a) The functions of the Agency shall be—

3 (1) the protection from unauthorized access of
4 official communications of the United States transmitted
5 by any electronic or mechanical device; and

6 (2) the collection of intelligence from foreign
7 communications transmitted by any electronic or me-
8 chanical device.

9 (b) As authorized by the Director of Central Intelli-
10 gence, the Agency may direct intelligence collection opera-
11 tions by other intelligence agencies having responsibility for
12 communications intelligence, including agencies having re-
13 sponsibility for collection of tactical military intelligence, but
14 no such direction may require that such other agency violate
15 any law.

16 (c) The Agency may not—

17 (1) engage in any domestic intelligence collection
18 activity;

19 (2) monitor any communication to or from any
20 American; and

21 (3) request or accept from any commercial carrier
22 any communication, or record of any communication,
23 which it could not otherwise obtain overtly.

1 DIRECTOR AND DEPUTY DIRECTOR

2 SEC. 143. (a) The head of the Agency shall be the
3 Director of the National Security Agency (hereinafter in
4 this part referred to as the "Director"), and there shall be
5 a Deputy Director of the National Security Agency (here-
6 inafter in this part referred to as the "Deputy Director")
7 who shall act for, and exercise the functions of, the
8 Director during his absence or disability.

9 (b) (1) The Director and Deputy Director shall be
10 appointed by the President, by and with the advice and
11 consent of the Senate, from among individuals in civilian
12 life.

13 (2) No individual shall serve as Director or Deputy
14 Director for a period exceeding eight years.

15 (3) (A) The Director shall be compensated at the rate
16 of basic pay payable for positions to which section 5313 of
17 title 5, United States Code, is applicable.

18 (B) The Deputy Director shall be compensated at the
19 rate of basic pay payable for positions to which section
20 5314 of title 5, United States Code, is applicable.

21 ADMINISTRATIVE PROVISIONS

22 SEC. 144. In carrying out his functions under this Act,
23 the Director is authorized to—

24 (1) appoint such officers and employees as he may

1 deem necessary to perform the functions now or here-
2 after vested in him and to prescribe their duties;

3 (2) obtain services as authorized by section 3109 of
4 title 5 of the United States Code, at rates not to exceed
5 the rate prescribed for grade GS-18 of the General
6 Schedule by section 5332 of title 5 of the United States
7 Code; and

8 (3) enter into contracts and other arrangements for
9 studies, analyses, and other services with public agencies
10 and with private persons, organizations, or institutions,
11 and make such payments as he deems necessary to carry
12 out the provisions of this Act without legal consideration,
13 without performance bonds, and without regard to sec-
14 tion 3709 of the Revised Statutes (41 U.S.C. 5).

15 SECURITY OF AGENCY FACILITIES

16 SEC. 145. (a) The Director shall be responsible for the
17 security of National Security Agency installations and the
18 personnel, operations, and records of the Agency. In dis-
19 charging such responsibilities, the Director may—

20 (1) conduct physical surveillance of individuals on
21 the grounds of any Agency installation; and

22 (2) upon reasonable suspicion that a breach of
23 security has occurred or is occurring, conduct physical
24 surveillance, for a period not to exceed fifteen days, of

1 any employee of the Agency, but any such surveillance
2 shall be conducted only upon the written authorization
3 of the Director of Central Intelligence and shall be
4 strictly limited to such employee and, to the extent
5 necessary for identification only, to individuals with
6 whom such employee comes in contact.

7 (b) If the Director, after conducting surveillance of an
8 employee under subsection (a) (2), has reason to believe
9 that a crime has been committed, he shall refer all relevant
10 information to the Federal Bureau of Investigation, which
11 shall have exclusive authority for the investigation of any
12 offense against the United States which may have occurred.
13 If the Director does not have reason to believe that a crime
14 has been committed, any investigation of such employee
15 shall be promptly terminated at the end of the fifteen-day
16 period prescribed by such subsection.

17 PART F—DEPARTMENT OF DEFENSE INTELLIGENCE
18 COMPONENTS

19 DEFENSE INTELLIGENCE AGENCY ABOLISHED

20 SEC. 151. The Defense Intelligence Agency is abolished.

21 FUNCTIONS OF DEPARTMENT OF DEFENSE INTELLIGENCE
22 COMPONENTS

23 SEC. 152. (a) The intelligence components of the De-
24 partment of Defense and of the Armed Forces shall have
25 the following functions:

34

1 is authorized to engage in any act which violates the Consti-
2 tution or any other law.

3 (d) No intelligence agency shall cause or encourage any
4 person or governmental entity to engage in any activity
5 which such agency is prohibited from engaging in.

6 (e) Except when the United States is in a state of war
7 declared by the Congress, no intelligence agency shall en-
8 gage in the clandestine collection of foreign intelligence by
9 human beings through espionage or other covert techniques,
10 including—

11 (1) employment, recruitment, direction, or deploy-
12 ment of any agent for the clandestine collection of foreign
13 intelligence;

14 (2) payment of public or private funds or any other
15 thing of value to any person or organization to engage in,
16 facilitate, or conceal the clandestine collection of foreign
17 intelligence, but this paragraph shall not prohibit any in-
18 telligence agency from accepting foreign intelligence
19 from any person who volunteers such intelligence to such
20 agency without receiving any such payment for such
21 intelligence;

22 (3) the use, whether direct or indirect, of any pri-
23 vate institution or official thereof, including any business,
24 foundation, college, university, religious group, labor
25 union, publisher, newspaper, periodical, press service,

35

1 news agency, or radio or television network or station,
2 to engage in, facilitate, conceal, or employ agents for the
3 clandestine collection of foreign intelligence; and

4 (4) the establishment of any clandestine organiza-
5 tion to engage in, facilitate, or conceal the clandestine
6 collection of foreign intelligence.

7 COVERT OPERATIONS PROHIBITED

8 SEC. 162. Except when the United States is in a state
9 of war declared by the Congress, no funds appropriated under
10 the authority of this or any other Act may be expended by
11 or on behalf of any intelligence agency for any operation or
12 activity in any foreign country which has an objective other
13 than counterintelligence or the collection of intelligence.

14 LIAISON WITH FOREIGN INTELLIGENCE SERVICES

15 RESTRICTED

16 SEC. 163. (a) No intelligence agency shall pay, cause,
17 or encourage any agency of any foreign government or any
18 citizen of any foreign country to engage in any activity which
19 such intelligence agency is prohibited from engaging in.

20 (b) The intelligence agencies and the Director of Cen-
21 tral Intelligence shall not be relieved of any requirement to
22 report any activity to the Congress or to any committee of
23 the Congress because such activity is carried out through
24 or by any agency of a foreign government.

25 (c) The Director of Central Intelligence shall inform the

1 appropriate committees of the Congress of any agreement
2 between any intelligence agency and any agency of a foreign
3 government.

4 RESTRICTIONS ON RELATIONSHIPS WITH DOMESTIC
5 POLICE

6 SEC. 164. (a) No intelligence agency (other than the
7 Federal Bureau of Investigation) may directly or indirectly
8 engage in the training of, or supplying equipment to, any
9 police or other law enforcement agency or department of
10 any State or any political subdivision of any State.

11 (b) Contacts between any law enforcement agency
12 referred to in subsection (a) and any intelligence agency
13 shall be limited to contacts required for the performance of
14 functions of such intelligence agency authorized by law.

15 PROHIBITIONS WITH RESPECT TO MINISTERS, JOURNAL-
16 ISTS, AND CERTAIN OTHER POTENTIAL CLANDESTINE
17 SOURCES

18 SEC. 165. (a) No intelligence agency shall—

19 (1) pay or provide other valuable consideration to
20 any individual following a religious vocation to—

21 (A) engage in any intelligence activity for, or
22 on behalf of, the United States, or

23 (B) provide any intelligence information to
24 any intelligence agency;

25 (2) pay or provide other valuable consideration to

1 any individual who is receiving funds through any pro-
2 gram of the United States designed to promote educa-
3 tion or the arts, humanities, or cultural affairs to—

4 (A) engage in any intelligence activity for, or
5 on behalf of, the United States, or

6 (B) provide any intelligence information to
7 any intelligence agency;

8 (3) make any payment or provide other valuable
9 consideration to any individual who—

10 (A) is a journalist accredited to any United
11 States media organization;

12 (B) contributes material to any United States
13 media organization;

14 (C) is involved, directly or indirectly, in the
15 editing of material for any United States media
16 organization; or

17 (D) acts to set policy for, or provide direction
18 to, any United States media organization; or

19 (4) pay for or otherwise support in any manner
20 the writing, production, or distribution of any book,
21 magazine, article, publication, film, or video or audio
22 tape, unless such support is publicly stated.

23 (b) For the purpose of this section, the term “United
24 States media organization” means any organization publish-
25 ing any newspaper, magazine, journal, or other periodical

1 publication, any broadcast organization, or any organization
2 producing films or video or audio tapes, if any part of such
3 organization is owned by citizens of the United States, the
4 principal place of such organization is in the United States,
5 and the principal distribution of such organization is in the
6 United States.

7 OWNERSHIP OF PROPRIETARY COMPANIES BY INTELLI-
8 GENCE AGENCIES

9 SEC. 166. (a) The Director of Central Intelligence
10 shall make an annual report to the President and the ap-
11 propriate committees of the Congress identifying all com-
12 mercial organizations which are owned, in whole or in part,
13 by any intelligence agency. Such report shall describe the
14 nature and function of each such organization and shall
15 include a list of all representations made by any other agency
16 or department of the United States and such other infor-
17 mation as the appropriate committees of Congress deem
18 relevant.

19 (b) No intelligence agency shall cause or encourage any
20 commercial organization owned in whole or in part by such
21 agency to engage in any activity which such agency is
22 prohibited from engaging in.

23 (c) All income of and other funds held by any organi-
24 zation referred to in subsection (a) which are not needed
25 for the operation of such organization, and all funds result-

1 ing from the liquidation or termination of such organization,
2 shall be remitted to the Treasury of the United States as
3 miscellaneous receipts.

4 (d) (1) Prior to the sale or other disposition of any
5 organization referred to in subsection (a), the Director of
6 Central Intelligence shall request the written opinion of the
7 Attorney General of the United States with respect to such
8 sale or disposition. Any opinion of the Attorney General un-
9 der this paragraph shall be transmitted to the appropriate
10 committees of Congress.

11 (2) No organization referred to in subsection (a) shall
12 be sold or otherwise transferred to any former officer or
13 employee of intelligence agency.

14 TRANSFER OF FUNDS

15 SEC. 167. (a) The transfer of funds between agencies
16 in connection with any intelligence collection activity, unless
17 such transfer is specifically authorized by law, is pro-
18 hibited.

19 (b) Reprograming of funds within an agency in
20 connection with any intelligence collection activity without
21 the specific approval in advance of the Director of Central
22 Intelligence and the appropriate committees of Congress is
23 prohibited.

24 (c) Expenditure of reserve or contingency funds in
25 connection with any intelligence collection activity without

1 the specific approval in advance of the Director of Central
2 Intelligence and the appropriate committees of Congress
3 is prohibited.

4 PART H--GENERAL PROVISIONS

5 PROTECTION OF CLASSIFIED INFORMATION AND MATERIAL

6 SEC. 171. (a) The head of each intelligence agency
7 shall be responsible for protecting properly classified infor-
8 mation and material in the custody of such agency from
9 unauthorized disclosure. The Federal Bureau of Investigation
10 shall have exclusive authority to investigate possible or sus-
11 pected violations of law relating to the handling of classified
12 information and material.

13 (b) Counterintelligence investigations inside the United
14 States shall be conducted by the Federal Bureau of Inves-
15 tigation and shall be limited to obtaining evidence of viola-
16 tions of the criminal laws of the United States.

17 (c) Background investigations of employees and con-
18 tractors, and of potential employees and contractors, of the
19 intelligence agencies shall be conducted by the Civil Service
20 Commission, but no such investigation may be conducted
21 without the prior consent of the person being investigated.

22 DISCLOSURE OF INFORMATION TO CONGRESSIONAL
23 COMMITTEES

24 SEC. 172. The head of each intelligence agency shall
25 provide to any appropriate committee of Congress any in-
26 formation held or obtainable by such agency upon request

1 of such committee or the chairman of such committee. The
2 classification of any such information under any executive
3 system for the protection of information from unauthorized
4 disclosure shall not constitute a reason for withholding in-
5 formation requested under this section.

6 BUDGET STATEMENTS

7 SEC. 173. (a) Section 201 of the Budget and Account-
8 ing Act, 1921 (31 U.S.C. 11) is amended by adding after
9 subsection (j) the following new subsection:

10 “(k) The budget transmitted pursuant to subsection (a)
11 of this section for each fiscal year, beginning with the fiscal
12 year ending on September 30, 1979, shall set forth—

13 “(1) the total amounts and line item amounts of
14 the budgets of—

15 “(A) the Office of the Director of Central In-
16 telligence;

17 “(B) the Central Intelligence Agency;

18 “(C) the National Security Agency; and

19 “(D) the Intelligence Research and Analysis
20 Agency;

21 “(2) the total amounts and line item amounts
22 devoted to intelligence activities of the budgets of—

23 “(A) the Department of Defense, including
24 the National Reconnaissance Office;

25 “(B) the Department of State; and

1 “(C) the Energy Research and Development
2 Administration; and

3 “(3) the total amount and line item amounts de-
4 voted to counterintelligence of the budget of the Federal
5 Bureau of Investigation.”.

6 (b) Beginning with fiscal year 1979, the Director of
7 Central Intelligence shall, at the time that the President
8 transmits his annual budget to the Congress, transmit the
9 national intelligence budget prepared pursuant to section
10 101 (e) (2) of this Act to the appropriate committees of
11 Congress.

12 AUDITS BY GENERAL ACCOUNTING OFFICE

13 SEC. 174. (a) Notwithstanding any other provision of
14 law, the General Accounting Office may conduct a full and
15 complete management, as well as financial, audit of any
16 intelligence agency.

17 (b) There shall be no limitation on the General Ac-
18 counting Office in the performance of its functions under this
19 or any other Act by reason of any executive classification
20 system for the protection of official information and material
21 from unauthorized disclosure.

22 (c) The audit function of the General Accounting Office
23 shall specifically apply to those funds which, under the law in
24 existence before the date of enactment of this Act, may be
25 expended on certification of a director of any agency.

1 SECRETARY OF STATE, SECRETARY OF DEFENSE, DIRECTOR
2 OF CENTRAL INTELLIGENCE, AND THE ASSISTANT TO
3 THE PRESIDENT FOR NATIONAL SECURITY AFFAIRS
4 NOT TO HOLD ANY OTHER OFFICE

5 SEC. 175. Except as specifically authorized by law,
6 the Secretary of State, the Secretary of Defense, the Director
7 of Central Intelligence and the Assistant to the President for
8 National Security Affairs shall not hold any other position
9 in the Government, except as members of advisory commit-
10 tees, in which they may be called upon to advise the
11 President.

12 DETAILEES

13 SEC. 176. Each intelligence agency shall disclose the
14 affiliation of any officer or employee of such agency who is
15 detailed to any other agency to all immediate colleagues and
16 supervisors of such officer or employee in the agency to
17 which such officer or employee is detailed.

18 ESTABLISHMENT OF RECRUITMENT STANDARDS

19 SEC. 177. Each intelligence agency shall establish stand-
20 ards for the recruitment of intelligence agents.

21 DEFINITIONS

22 SEC. 178. For purposes of this title:

23 (1) The term "intelligence" means information
24 which pertains to the national security of the United
25 States other than information collected and produced

1 for tactical purposes by an intelligence component of
2 any of the Armed Forces of the United States.

3 (2) The term "intelligence agency" means—

4 (A) the Office of the Director of Central
5 Intelligence;

6 (B) the Central Intelligence Agency;

7 (C) the National Security Agency;

8 (D) the Intelligence Research and Analysis
9 Agency;

10 (E) with respect to its intelligence activities
11 (including activities conducted by the National Re-
12 connaissance Office), the Department of Defense;

13 (F) with respect to its intelligence activities,
14 the Department of State;

15 (H) with respect to its intelligence activities,
16 the Energy Research and Development Administra-
17 tion; and

18 (I) with respect to its foreign counterintelli-
19 gence activities, the Federal Bureau of Investiga-
20 tion.

21 (3) The term "appropriate committee of Congress"
22 means, with respect to any intelligence agency, the
23 standing committees of the Senate and House of Rep-
24 resentatives having legislative jurisdiction over such
25 intelligence agency.

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1 (4) The term "agency" means any Executive
2 agency, as such term is defined in section 105 of title 5;
3 United States Code, and any military department.

4 (5) The term "American" means any citizen of
5 the United States, any alien lawfully admitted to the
6 United States for permanent residence, and any unincor-
7 porated association composed primarily of citizens of
8 the United States and aliens lawfully admitted to the
9 United States for permanent residence.

10 TITLE II—DOMESTIC INTELLIGENCE

11 ACTIVITIES

12 PART A—STANDARDS AND PROCEDURES FOR CONDUCT 13 OF CRIMINAL INVESTIGATIONS

14 PROHIBITED DOMESTIC INTELLIGENCE INVESTIGATIONS

15 SEC. 201. Unless authorized by statute, no Federal offi-
16 cial and no agency of the Federal Government may—

17 (1) initiate or conduct political surveillance or any
18 other investigation or otherwise collect, index, file, store,
19 maintain, or disseminate information relating to the be-
20 liefs, opinions, associations, or other first amendment
21 activity of any person by any means;

22 (2) authorize, institute, or participate in any pro-
23 gram, plan, technique, pretext investigation, or other
24 preventive action which is designed or intended to dis-
25 rupt, discredit, or otherwise interfere with the first

1 amendment activity of any person, or which is reason-
2 ably likely to have such effect;

3 (3) authorize or carry out selective investigations
4 or prosecutions directed at any person because such
5 person is engaged in first amendment activity; or

6 (4) encourage, assist, cooperate, delegate, contract
7 with, or act at the request of, any other Federal, State,
8 local, or private agency or organization, or with any
9 person, to plan, institute, or conduct any investigation or
10 to use any investigative technique in a manner prohibited
11 by this Act.

12 REASONABLE SUSPICION AS STANDARD FOR CRIMINAL IN-
13 VESTIGATIONS BY FEDERAL BUREAU OF INVESTIGATION :

14 SEC. 202. (a) The Federal Bureau of Investigation
15 shall have no function other than the investigation of specific
16 acts which violate Federal criminal statutes.

17 (b) The Federal Bureau of Investigation may not
18 conduct an investigation of any person unless there is reason-
19 able suspicion that such person has committed, is committing,
20 or about to commit a specific act which violates a Federal
21 criminal statute, except that the Federal Bureau of Investiga-
22 tion may, in accordance with section 203, undertake a pre-
23 liminary inquiry upon receiving a specific allegation that
24 a person has committed, is committing, or is about to com-
25 mit a specific act which violates a Federal criminal statute.

1 AUTHORITY REQUIRED FOR PRELIMINARY INQUIRY

2 SEC. 203. Upon receipt of a specific allegation that a
3 person has committed, is committing, or is about to commit
4 a specific act which violates a Federal criminal statute, the
5 Federal Bureau of Investigation may undertake a preliminary
6 inquiry for the sole purpose of determining whether there is
7 sufficient factual basis to warrant an investigation under sec-
8 tion 204. A preliminary inquiry under this section shall be
9 limited to the following sources of information:

10 (1) The person making the allegation and other
11 persons volunteering relevant information.

12 (2) The Federal Bureau of Investigation indexes
13 and files.

14 (3) State and local authorities and their records.

15 (4) Public records and other public sources of in-
16 formation.

17 A preliminary inquiry shall be closed within sixty days of
18 the date upon which the inquiry was initiated unless the
19 Director of the Federal Bureau of Investigation issues a
20 written authorization to continue such preliminary inquiry
21 for a period not to exceed thirty days. Any such authorization
22 shall be issued only when facts or information obtained dur-
23 ing the original period justify such extension and shall set
24 forth the particular facts or information upon which such
25 authorization is based.

1 **AUTHORITY REQUIRED FOR CRIMINAL INVESTIGATION**

2 SEC. 204. (a) No criminal investigation shall be con-
3 ducted by the Federal Bureau of Investigation unless such
4 investigation is authorized in writing by the Director of the
5 Federal Bureau of Investigation. Such authorization shall
6 include a statement of the facts that justify the investigation
7 under the standard set forth in section 202, the investigative
8 techniques authorized to be used in such investigation, a
9 finding as to whether there is reason to believe that the in-
10 vestigation may result in the collection of information per-
11 taining to first amendment activity, and the precautions that
12 will be taken to minimize any such collection. A criminal
13 investigation shall be closed within ninety days of the date
14 upon which such investigation was initiated unless an ex-
15 tension of such investigation is authorized in writing by the
16 Attorney General.

17 (b) If in the course of a criminal investigation the
18 Director or the agent conducting or supervising such investi-
19 gation has reason to believe that such investigation may
20 result in the collection of information relating to first amend-
21 ment activity or may pose any danger to first amendment
22 activity, he shall promptly bring such investigation to the
23 attention of the Attorney General for review and authoriza-
24 tion. The Attorney General shall review the factual basis for
25 such investigation and the investigative procedures to be used

1 in such investigation. If the Attorney General, after such
2 review, is satisfied that the investigation does not violate the
3 express prohibitions of this Act, that it is warranted under
4 the standard set forth in section 202, and that adequate pre-
5 cautions have been taken to minimize any danger to first
6 amendment activity, the Attorney General may issue a
7 written authorization that the investigation may proceed.
8 Otherwise, the investigation shall be promptly terminated.

9 (c) Upon receiving a written authorization from the
10 Attorney General under subsection (a), for an extension
11 of an investigation, the Federal Bureau of Investigation may
12 continue an investigation for a period specified by the At-
13 torney General in such authorization not to exceed ninety
14 days. Any such authorization by the Attorney General shall
15 be required for any extension and shall certify that the
16 Attorney General has reviewed the investigation and all
17 reports pertaining thereto, has found that such investigation
18 does not violate the express prohibitions of this Act, that it
19 continues to meet the standard set forth in section 202, and
20 that the precautions taken or to be taken to minimize any
21 danger to first amendment activity are adequate.

22 (d) No investigation of a crime that has not yet occurred
23 may continue for more than six months unless the Director
24 certifies in writing that probable cause exists that there is
25 imminent likelihood that the person under investigation is

1 about to commit a specific criminal act to be committed and
2 the Attorney General issues a written authorization for an
3 extension in accordance with subsection (c).

4 (e) All investigations shall be designed and conducted
5 so as not to limit or inhibit the full exercise of rights pro-
6 tected by the Constitution and laws of the United States.

7 TERMINATION OF INQUIRIES AND INVESTIGATIONS

8 SEC. 205. (a) Preliminary inquiries under section 203
9 and investigations under section 204 may be terminated at
10 any time by the Director or the Attorney General, and
11 investigations shall be terminated promptly whenever the
12 standard set forth in section 202 can no longer be met.

13 (b) Upon termination of an authorized investigation
14 because of an insufficient factual basis to warrant continuing
15 such investigation, the Attorney General shall seal all inves-
16 tigative files pertaining to such investigation.

17 (c) Personal information contained in a file sealed pur-
18 suant to subsection (b) shall not be disseminated except—

19 (1) to the Inspector General and the congressional
20 committees with oversight responsibility;

21 (2) pursuant to a valid subpoena or search warrant
22 issued by a court; and

23 (3) to the subject of the investigation if requested
24 in accordance with law.

1 (d) No personal information shall be added to a file
2 which has been sealed pursuant to subsection (b) unless
3 pursuant to a lawful request by the subject of the investi-
4 gation.

5 (e) Six months after the sealing of an investigative
6 file, the Director or the Attorney General shall inform in
7 writing any person who is the subject of such sealed investi-
8 gative file that such person has been the subject of an
9 investigation, that a sealed file with respect to such investi-
10 gation is maintained by the Department of Justice, and that
11 such person has a right of access to such file pursuant to law.

12 (f) Sealed files shall be retained for ten years after
13 termination of an investigation.

14 (g) Ten years after the initial sealing of a file such file
15 shall be destroyed unless the Attorney General certifies that
16 such file is required for civil or criminal litigation or that
17 such file is subject to a valid subpoena or search warrant
18 issued by a court.

19 (h) Notwithstanding any other provision of law, any
20 personal information that is irrelevant to lawful investigative
21 purposes, that pertains to first amendment activity, that is
22 false or defamatory, or that was acquired by illegal means
23 shall be destroyed as soon as possible.

52

1 PART B—WARRANT REQUIREMENTS AND PROCEDURES
2 FOR USE OF CERTAIN INVESTIGATIVE TECHNIQUES
3 RESTRICTIONS ON INFORMANT SURVEILLANCE, ACCESS TO
4 RECORDS, AND MAIL COVERS

5 SEC. 211. No Federal agency or official shall recruit,
6 place, or use any informant or undercover agent, inspect or
7 obtain access to any tax, bank, credit, or toll records, or use
8 any mail cover, except as authorized by a court order issued
9 in accordance with this part upon an application authorized
10 by the Attorney General or by an assistant Attorney General
11 specially designated by the Attorney General for such
12 purpose.

13 WARRANT PROCEDURES AND REQUIREMENTS FOR USE OF
14 INFORMANTS AND UNDERCOVER AGENTS

15 SEC. 212. (a) Each application for an order authorizing
16 the placement, recruitment, or use of an informant or under-
17 cover agent shall be made in writing upon oath or affirma-
18 tion to a court of competent jurisdiction and shall state the
19 applicant's authority to make such application and shall
20 include—

21 (1) the identity of the investigative or law en-
22 forcement officer making the application and of the
23 officer authorizing the application;

24 (2) the identity of the proposed informant or under-
25 cover agent;

1 (3) a full and complete statement of the facts and
2 circumstances relied upon by the applicant to justify the
3 belief that an order should be issued, including—

4 (A) details as to the particular Federal offense
5 that has been, is being, or is about to be committed;

6 (B) a particular description of the nature and
7 location of the persons to be placed under surveil-
8 lance by such informant or undercover agent;

9 (C) a particular description of the type of
10 information or facts sought to be obtained by such
11 surveillance; and

12 (D) the identity of the person, if known, com-
13 mitting the offense under investigation and about
14 whom information is being sought;

15 (4) a full and complete statement and record as
16 to whether other less intrusive investigative procedures
17 have been tried and failed or why they reasonably
18 appear to be unlikely to succeed if tried;

19 (5) a statement of the period of time during which
20 such informant or undercover agent is to be used;

21 (6) a full and complete statement of the facts con-
22 cerning any previous application to a court for authoriza-
23 tion to use informants or undercover agents for surveil-
24 lance which involved any of the same persons, facilities,

1 places, or things specified in the application, and the
2 action taken by the court on each such application; and

3 (7) where the application is for the extension of
4 an authorization, a statement setting forth the results
5 thus far obtained under the prior authorization, or a
6 reasonable explanation of the failure to obtain such
7 results.

8 (b) The court may require the applicant to furnish
9 additional testimony or documentary evidence in support of
10 any application under this section.

11 (c) Upon such application, the court may enter an ex
12 parte order, as requested or modified, authorizing or approv-
13 ing the placement, recruitment, or use of an informant or
14 undercover agent within the territorial jurisdiction of the
15 court, if the court determines on the basis of the facts sub-
16 mitted by the applicant that—

17 (1) there is probable cause that an individual is
18 committing, has committed, or is about to commit a
19 particular Federal offense under the jurisdiction of the
20 applicant;

21 (2) there is probable cause that evidence concern-
22 ing that offense will be obtained by the informant or
23 undercover agent;

24 (3) other less intrusive investigative procedures

1 have been tried and have failed or reasonably appear to
2 be unlikely to succeed if tried;

3 (4) the informant or undercover agent is reliable;
4 and

5 (5) the informant or undercover agent would not
6 pose any danger to first amendment activity.

7 (d) Each order authorizing the use of an informant or
8 undercover agent shall specify—

9 (1) the identity of the person, if known, who is the
10 target of the informant or undercover agent;

11 (2) the persons and places to be under surveillance
12 by such informant or undercover agent;

13 (3) a particular description of the type of informa-
14 tion or facts sought and a statement of the particular
15 offense to which such information or facts relate;

16 (4) the identity of the agency authorized to employ
17 the informant or undercover agent and of the person
18 authorizing the application;

19 (5) the period of time during which such informant
20 or undercover surveillance may be used; and

21 (6) all steps to be taken to protect first amendment
22 activity.

23 (e) No order entered under this section may authorize
24 the use of an informant or undercover agent for a period

1 longer than is necessary to achieve the objective of the au-
2 thorization, nor in any event for longer than thirty days.
3 Extensions of an order under this section may be granted,
4 but only upon an application made in accordance with sub-
5 section (a) and findings by the court in accordance with
6 subsection (c). Each order and extension of an order under
7 this section shall require that the authorization be executed
8 as soon as practicable and be conducted in such a way as
9 to minimize the gathering of information not otherwise sub-
10 ject to interception or seizure under this Act.

11 (f) Whenever an order authorizing the use of an in-
12 formant or undercover agent is entered under this section,
13 the order shall require detailed reports to be made to the
14 court issuing such order showing the progress which has
15 been made toward achievement of the objective of the au-
16 thorized surveillance and whether there is a need for con-
17 tinuation of such order. Such reports shall be made at such
18 times as the court may require, but not less frequently than
19 every thirty days while such order is in effect, and there shall
20 be a final report not later than ten days after expiration
21 of such order.

22 (g) A detailed record of how any informant or under-
23 cover agent authorized under this section was employed
24 and all information of facts gathered from such informant
25 or agent shall be maintained. Immediately upon the expira-

1 tion of the authorization for the use of such informant or
2 agent, such record shall be made available to the court
3 issuing the order authorizing such use and shall be sealed un-
4 der direction of the court. Custody of such record shall be
5 wherever the court orders, and such record shall not be
6 destroyed except under a court order and in any event
7 shall be kept for ten years.

8 (h) Applications made and orders, including orders for
9 extensions, granted under this section shall be sealed by the
10 court. Custody of such applications and orders shall be wher-
11 ever the court directs. Except as provided in subsection (j),
12 such applications and orders shall be disclosed only upon a
13 showing of good cause pursuant to a subpoena or court order
14 issued by a court of competent jurisdiction and shall not be
15 destroyed except upon a court order and in any event shall
16 be kept for ten years.

17 (i) Any violation of the provisions of this section may
18 be punished as criminal contempt of court.

19 (j) Within a reasonable time but not more than ninety
20 days after the termination of the period of any order or exten-
21 sions thereof under this section, the court shall cause to be
22 served on the persons named in the order and such other
23 parties as the court may direct an inventory which shall in-
24 clude notice of—

25 (1) the fact of the entry of such order;

1 (2) the date of the entry such order and the period
2 of authorized use of the informant or undercover agent in-
3 volved; and

4 (3) the fact that during such period information
5 concerning such person or persons was gathered.

6 The court shall make available to each such person or his
7 counsel for inspection and copying the entire record of the
8 surveillance of such person, except that the identity of the
9 informant or undercover agent involved need not be dis-
10 closed. Any party denied or excluded from distribution of
11 such notice, or denied access to any portion of the record,
12 applications and orders, shall be entitled to a hearing with
13 respect thereto.

14 (k) Information derived from the use of an informant
15 or undercover agent shall not be received in evidence or oth-
16 erwise disclosed in any trial, hearing, or other proceeding,
17 including any grand jury proceeding, in a Federal or State
18 court or administrative agency unless the requirements of
19 this section have been complied with and each party, not
20 less than twenty days before the commencement of such
21 trial, hearing or proceeding, has been furnished with a copy
22 of the court order and accompanying application under which
23 use of such informant or undercover agent was authorized.

24 (l) Any aggrieved person in any trial, hearing, or

1 proceeding in or before any court, department, officer,
2 agency, regulatory body, or other authority of the United
3 States, a State, or a political subdivision thereof, may move
4 to suppress any facts, information, or evidence derived from
5 use of an informant or undercover agent on the grounds
6 that—

7 (1) such facts, information or evidence were unlaw-
8 fully gathered;

9 (2) the application for the order authorizing such
10 use, or such order, failed to comply with the require-
11 ments of this Act; or

12 (3) such informant or undercover agent was not
13 used in conformity with such order of authorization.

14 Such motion shall be made before the commencement of such
15 trial, hearing, or proceeding unless there was no opportunity
16 to make such motion, or the person was not aware of the
17 grounds for such motion, until such trial, hearing, or proceed-
18 ing had commenced. If such motion is granted, such facts,
19 information, or evidence shall be treated as having been ob-
20 tained in violation of this title and of section 2236 of title
21 18, United States Code, as added by section 311 of this Act,
22 and shall not be received in evidence or otherwise disclosed
23 in any proceeding in any State or Federal court or admin-
24 istrative agency. The court, upon the filing of such motion,

1 shall make available to the moving party for inspection the
2 entire record, including the identity of the informant or
3 undercover agent.

4 WARRANT PROCEDURES AND REQUIREMENTS FOR INSPEC-
5 TION OF RECORDS WITHOUT PRIOR NOTICE

6 SEC. 213. (a) No bank, financial institution, commu-
7 nication common carrier, credit card issuer, or consumer re-
8 porting agency, or any officer, employee, or agent thereof,
9 may provide to any officer, employee, or agent of the United
10 States, or any agency or department thereof, copies of,
11 access to, or information contained in, the record of any
12 individual except in accordance with the requirements of this
13 section or section 214 and of subparagraphs (A) and (C)
14 of section 604(3) of the Fair Credit Reporting Act (15
15 U.S.C. 1681b(3) (A) and (C)).

16 (b) Each application for an order authorizing inspec-
17 tion or procurement of tax, bank, credit, or toll records shall
18 be made in writing upon oath or affirmation to a court of
19 competent jurisdiction and shall state the applicant's authority
20 to make such application and shall include—

21 (1) the identity of the investigative or law en-
22 forcement officer making the application and of the
23 officer authorizing the application;

24 (2) a full and complete statement of the facts and

1 circumstances relied upon by the applicant to justify the
2 belief that an order should be issued, including—

3 (A) details as to the particular Federal offense
4 that has been, is being, or is about to be committed;

5 (B) a particular description of the nature and
6 location of the records to be inspected;

7 (C) a particular description of the type of
8 information or facts sought to be obtained by such
9 inspection; and

10 (D) the identity of the person, if known, com-
11 mitting the offense under investigation and about
12 whom information is being sought;

13 (3) a full and complete statement and record as
14 to whether other less intrusive investigative procedures
15 have been tried and failed or why they reasonably ap-
16 pear to be unlikely to succeed if tried;

17 (4) a statement of the period of time during which
18 such inspection of records is to take place;

19 (5) a full and complete statement of the facts con-
20 cerning any previous application to a court for authoriza-
21 tion to inspect or procure tax, bank, credit, or toll
22 records involving any of the same persons, facilities,
23 places, or things specified in the application, and the
24 action taken by the court on each such application; and

1 (6) where the application is for the extension of
2 an authorization, a statement setting forth the results
3 thus far obtained under the prior authorization, or a
4 reasonable explanation of the failure to obtain such
5 results.

6 (b) The court may require the applicant to furnish addi-
7 tional testimony or documentary evidence in support of any
8 application.

9 (c) Upon such application, the court may enter an ex
10 parte order, as requested or modified, authorizing inspection
11 of records within the territorial jurisdiction of the court, if
12 the court determines on the basis of the facts submitted by
13 the applicant that—

14 (1) there is probable cause that an individual is
15 committing, has committed, or is about to commit a
16 particular Federal offense under the jurisdiction of the
17 applicant;

18 (2) there is probable cause that evidence concern-
19 ing that offense will be obtained through the inspection
20 of the records identified in the application;

21 (3) other less intrusive investigative procedures
22 have been tried and have failed or reasonably appear
23 to be unlikely to succeed if tried;

24 (4) the issuance of a subpoena with prior notice
25 to the person under investigation in accordance with

1 section 214 would frustrate the purposes of such criminal
2 investigation; and

3 (5) inspection of the records identified in the
4 application would not pose any danger to First Amendment
5 activity.

6 (d) Each order authorizing the inspection of records
7 shall specify—

8 (1) the identity of the person about whom information
9 is sought from the records to be inspected;

10 (2) the nature and location of the records to be
11 inspected;

12 (3) a particular description of the type of information
13 sought and of the Federal crime to which it relates;
14 and

15 (4) the identity of the agent authorized to inspect
16 the records.

17 (e) A copy of any order authorizing an inspection of
18 records shall be served on any party having a cognizable
19 interest in the records within 48 hours of the execution
20 of such order.

21 (f) Every order authorizing an inspection of records
22 shall require that the authorization shall be executed as
23 soon as practicable and shall be conducted in such a way
24 as to minimize the gathering of information not otherwise
25 subject to interception or seizure under this Act.

1 (g) Any violation of the provisions of this section
2 may be punished as criminal contempt of court.

3 (h) Information or facts derived from an inspection
4 of records shall not be received in evidence or otherwise
5 disclosed in any trial, hearing, or other proceeding, includ-
6 ing any grand jury proceeding, in a Federal or State court
7 or administrative agency unless the requirements of this
8 section have been complied with.

9 (i) Any person in any trial, hearing, or proceeding in
10 or before any court, department, officer, agency, regulatory
11 body, or other authority of the United States, or of any
12 State, or a political subdivision thereof, may move to sup-
13 press any facts, information, or evidence derived from an
14 inspection of records on the grounds that—

15 (1) such facts, information, or evidence were un-
16 lawfully gathered;

17 (2) the application for the order authorizing such
18 inspection, or such order, failed to comply with the re-
19 quirements of this Act; or

20 (3) the inspection of records was not conducted in
21 conformity with such order of authorization.

22 Such motion shall be made before the commencement of
23 such trial, hearing, or proceeding unless there was no op-
24 portunity to make such motion, or the person was not aware
25 of the grounds for such motion, until such trial, hearing, or

1 proceeding had commenced. If such motion is granted,
2 such facts, information, or evidence shall be treated as hav-
3 ing been obtained in violation of this title and of section
4 2236 of title 18, United States Code, as added by section
5 311 of this Act, and shall not be received in evidence or
6 otherwise disclosed in any proceeding in any State or Federal
7 court or administrative agency.

8 PROCEDURES FOR SUBPENA OF RECORDS WITH PRIOR

9 NOTICE

10 SEC. 214. (a) Notwithstanding the provisions of sec-
11 tions 211 and 213, an officer, employee, agent, or authority
12 of the United States or any agency or department thereof
13 may request from a bank or other financial institution, com-
14 munication common carrier, credit card issuer, or consumer
15 reporting agency copies of, access to, or information con-
16 tained in, the tax, bank, credit, or toll records pertaining to
17 any person pursuant to a subpoena if—

18 (1) such subpoena is otherwise authorized by law
19 and (A) in the case of a grand jury subpoena, will pro-
20 duce information relevant to a legitimate law enforce-
21 ment purpose; and (B) in the case of any other sub-
22 pena, that such subpoena will produce information rele-
23 vant to the proceedings for which the subpoena has been
24 issued;

25 (2) a copy of such subpoena has been personally

1 received by any person having a cognizable interest in
2 such records or has been mailed to such person's last
3 known address by registered or certified mail on the date
4 on which the subpoena was served on the financial insti-
5 tution, communication common carrier, credit card is-
6 suer, or consumer reporting agency together with the
7 following notice:

8 "RECORDS OR INFORMATION CONCERNING YOUR
9 TRANSACTIONS WHICH ARE HELD BY THE ORGANIZA-
10 TION NAMED IN THE ATTACHED SUBPENA ARE BEING
11 SOUGHT BY [name of agency or department of author-
12 ity] FOR THE FOLLOWING PURPOSE: [statement of pur-
13 pose].

14 "IF YOU DESIRE THAT SUCH RECORDS OR INFOR-
15 MATION NOT BE PRODUCED, YOU SHOULD WITHIN
16 EIGHTEEN DAYS APPLY TO THE COURT NAMED IN THE
17 SUBPENA TO PROHIBIT ITS ENFORCEMENT. OTHERWISE,
18 UPON THE EXPIRATION OF EIGHTEEN DAYS FROM THE
19 DATE OF THE DELIVERY OR MAILING OF THIS NOTICE
20 THE RECORDS OR INFORMATION REQUESTED IN SUCH
21 SUBPENA WILL BE MADE AVAILABLE.";

22 (3) eighteen days have expired from the date of
23 personal delivery or mailing of notice to the customer
24 within which period either any person having cogniz-
25 able interest in the records, or the financial or medical

1 institution, communication common carrier, credit card
2 issuer, or consumer reporting agency, or both, may
3 move to quash such subpoena in the court named in the
4 subpoena; and

5 (4) concurrent with service of subpoena, a notice
6 is provided to the financial or medical institution, com-
7 munication common carrier, credit card issuer, or con-
8 sumer reporting agency stating the rights, obligations,
9 and liabilities of such organization under this Act.

10 (b) Any person having a cognizable interest in records
11 which are subpoenaed under this Act shall have standing to
12 move to quash such subpoena or to seek other relief.

13 WARRANT PROCEDURE FOR MAIL COVERS

14 SEC. 215. (a) A mail cover is the procedure by which
15 a systematic recording or inspection is made of any material
16 appearing on the outside cover of any mail matter, including
17 the name and address of the sender, the place and date of
18 postmarking, and the class of mail.

19 (b) Each application to a court for an order authorizing
20 the use of a mail cover shall be made in accordance with
21 rule 41 of the Federal Rules of Criminal Procedure, based
22 upon probable cause that evidence of a Federal crime will be
23 obtained thereby.

24 (c) A mail cover may be conducted for a period of
25 thirty days. Authorization for continuance of a mail cover

1 for additional periods of thirty days may be obtained, but
2 only in accordance with this title. In no event shall the total
3 period of time for a mail cover exceed one year.

4 (d) Within a reasonable time, but no later than ninety
5 days after the termination of the period for a mail cover,
6 the court authorizing the mail cover shall cause to be pro-
7 vided to the person whose mail is the subject of the mail
8 cover a notice of the existence, dates, and purpose of such
9 mail cover.

10 PART C—FEDERAL BUREAU OF INVESTIGATION
11 AUTHORITY OF ATTORNEY GENERAL WITH RESPECT TO
12 THE FEDERAL BUREAU OF INVESTIGATION

13 SEC. 221. (a) The Attorney General shall be responsi-
14 ble for the supervision of the activities of the Federal
15 Bureau of Investigation (hereinafter in the part referred to
16 as the "Bureau") and shall—

17 (1) approve the annual budget of the Bureau before
18 its submission to Congress;

19 (2) have unrestricted access to all information in
20 the possession of the Bureau;

21 (3) conduct at least annually a complete review of
22 the investigative procedures of the Bureau, including a
23 random sample of investigative files and indexes, and
24 shall submit a detailed report and evaluation to the
25 Congress and the public;

1 (4) testify at least annually before congressional
2 committees with oversight responsibility over the Bu-
3 reau and report any evidence of activity by the Bureau
4 in violation of the law or the Constitution of the United
5 States; and

6 (5) advise the Director of the Federal Bureau of
7 Investigation on interpretations of statutes, regulations,
8 and judicial opinions that may affect the legality and
9 constitutionality of the investigative procedures of the
10 Bureau and take all appropriate steps to ensure that the
11 investigative procedures and activities of the Bureau are
12 in conformity with the laws and the Constitution of the
13 United States.

14 (b) The Attorney General may, after consultation with
15 the Director of the Federal Bureau of Investigation, promul-
16 gate regulations to implement this title. Such regulations
17 shall be promulgated in accordance with chapter 5 of title 5,
18 United States Code.

19 DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION

20 SEC. 222. (a) (1) Section 532 of title 28, United
21 States Code, is amended to read as follows:

22 “§ 532. Director of the Federal Bureau of Investigation

23 “(a) The Director of the Federal Bureau of Investi-
24 gation is the head of the Federal Bureau of Investigation.

25 “(b) The Director of the Federal Bureau of Investi-

1 gation shall be appointed by the President, by and with
2 the advice and consent of the Senate, and shall receive
3 compensation at the rate prescribed for level II of the Fed-
4 eral Executive Salary Schedule (5 U.S.C. 5313).

5 “(c) Effective with respect to any individual appointed
6 as Director of the Federal Bureau of Investigation after
7 June 1, 1973, the Director of the Federal Bureau of In-
8 vestigation shall serve at the pleasure of the President for
9 a term of ten years. A Director may not serve more than
10 one term as Director. The provisions of subsections (a)
11 through (c) of section 8335 of title 5, United States Code,
12 shall apply to any individual appointed under this section.”.

13 (2) Section 1101 of the Omnibus Crime Control and
14 Safe Streets Act of 1968 (28 U.S.C. 532 note) is repealed.

15 (b) (1) Chapter 33 of title 28, United States Code, is
16 amended by adding after section 537 the following new
17 section:

18 **“§ 538. Duties of Director of the Federal Bureau of Inves-**
19 **tigation**

20 “(a) The Director of the Federal Bureau of Investiga-
21 tion shall be responsible to, and under the supervision and
22 control of, the Attorney General.

23 “(b) The Director shall be responsible for the operations
24 of the Federal Bureau of Investigation and shall—

25 “(1) prepare the annual budget of the Federal

1 Bureau of Investigation for submission to the Attorney
2 General;

3 “(2) have unrestricted access to all information in
4 the possession of the Federal Bureau of Investigation;

5 “(3) develop and implement policies regarding
6 investigative procedures and activities in consultation
7 with the Inspector General and the Attorney General;

8 “(4) cooperate fully with the Inspector General,
9 the Attorney General, and the General Accounting Office
10 in all audits and reviews of the Federal Bureau of
11 Investigation;

12 “(5) testify at least annually before congressional
13 committees with oversight responsibility over the Fed-
14 eral Bureau of Investigation and report any evidence of
15 activity by the Federal Bureau of Investigation in viola-
16 tion of the laws or the Constitution of the United States.

17 (2) The table of sections for chapter 33 of title 28,
18 United States Code, is amended by adding after the item
19 relating to section 537 the following new item:

“538. Duties of Director of the Federal Bureau of Investigation.”.

20 INSPECTOR GENERAL OF THE FEDERAL BUREAU OF
21 INVESTIGATION

22 SEC. 223. (a) There shall be in the Bureau an Inspector
23 General of the Federal Bureau of Investigation (hereinafter
24 in this section referred to as the “Inspector General”), who

1 shall be appointed by the President, by and with the advice
2 and consent of the Senate.

3 (b) The Inspector General shall have access to all
4 information held by the Bureau and shall have the authority
5 to review all activities of the Bureau and to investigate any
6 possible or potential misconduct by the Bureau.

7 (c) The Inspector General shall report any operation,
8 activity, or investigative procedure of the Bureau which ap-
9 pears to the Inspector General to have been conducted in
10 violation of the Constitution or the laws of the United States
11 or of any State or any political subdivision thereof to the
12 Attorney General, the Director of the Federal Bureau of
13 Investigation, and the Committees on the Judiciary of the
14 Senate and House of Representatives. Each component of
15 the Bureau shall report all instances of misconduct and all
16 allegations of misconduct to the Inspector General.

17 (d) The Inspector General shall submit a report to the
18 Congress each year on his activities and the operation of his
19 office during the preceding year.

20 ORGANIZATIONAL CHANGES IN THE FEDERAL BUREAU
21 OF INVESTIGATION

22 SEC. 224. (a) The Internal Security Branch of the In-
23 telligence Division of the Federal Bureau of Investigation
24 is abolished, and the investigative intelligence gathering

1 functions for which it is or has been responsible are
2 terminated.

3 (b) The function of conducting background investiga-
4 tions of Presidential appointees, candidates for judgeships,
5 Federal employees, or the employees of Federal contractors
6 is hereby transferred to the Civil Service Commission. No
7 such investigation may be conducted without the prior
8 consent of the person to be investigated.

9 (c) The function of collecting, analyzing, storing, re-
10 porting, publishing, and disseminating data on crime and
11 other data-bank functions of the Federal Bureau of Investi-
12 gation are transferred to an independent unit to be estab-
13 lished by the Attorney General within the Justice
14 Department under the supervision of the Attorney General.

15 (d) (1) Section 536 of title 28, United States Code,
16 is amended by striking out "All" and inserting in lieu
17 thereof "Supervisory".

18 (2) Any individual employed in a nonsupervisory posi-
19 tion in the Federal Bureau of Investigation on the effective
20 date of the amendment made by paragraph (1) shall con-
21 tinue to hold such position in the competitive service and
22 shall have tenure and other rights and benefits of the com-
23 petitive service as if such position, and any other position
24 previously held by such individual in the Federal Bureau

1 of Investigation, had been in the competitive service at all
2 times such individual held such position.

3 PART D—INTERNAL REVENUE SERVICE

4 RESTRICTIONS ON INTERNAL REVENUE SERVICE

5 SEC. 231. The Internal Revenue Service shall not—

6 (1) collect any information about any American on
7 behalf of any intelligence agency or for its use except for
8 the investigation of possible violations of the Internal
9 Revenue Code of 1954;

10 (2) investigate any person or group for any purpose
11 not relevant to enforcement of such Code;

12 (3) conduct selective investigations or prosecutions
13 of such Code;

14 (4) participate in any investigation relating to
15 domestic security; or

16 (5) release tax returns or tax-related information
17 for any reason unless—

18 (A) such release is authorized by the Commis-
19 sioner of Internal Revenue;

20 (B) the data is relevant to the investigation or
21 prosecution of a tax crime; and

22 (C) a formal request is received from the prin-
23 cipal officer of the requesting agency, specifying—

24 (i) the purpose for which such disclosure
25 is sought;

75

(ii) facts sufficient to establish that the requested information is needed by the requesting agency in the performance of legal and authorized functions;

(iii) the uses the requesting agency intends to make of the information;

(iv) the extent of disclosure sought;

(v) agreement not to use the information in any function not in accordance with the law; and

(vi) agreement that the information will not be disclosed to any other agency or person except in accordance with the law.

PART E—DEFINITIONS

DEFINITIONS

SEC. 241. For purposes of this title:

(1) The term "agency" means any Executive agency, as such term is defined in section 105 of title 5, United States Code, and any military department.

(2) The term "first amendment activity" includes the exercise of freedom of speech, freedom of the press, freedom of assembly and association, the right to petition the Government for a redress of grievances, and any political activity not prohibited by law or regulation or by the Constitution.

1 (3) The term "person" means a citizen of the
2 United States, a lawfully admitted permanent resident
3 alien in the United States, an unincorporated associa-
4 tion composed primarily of United States citizens and
5 lawfully admitted permanent resident aliens, and a cor-
6 poration incorporated in the United States or having
7 majority ownership by United States citizens and law-
8 fully admitted permanent resident aliens.

9 (4) The term "American" means a citizen of the
10 United States, a lawfully admitted permanent resident
11 alien, and an unincorporated association composed pri-
12 marily of citizens of the United States and lawfully
13 admitted permanent resident aliens.

14 (5) The term "Federal official" means any officer,
15 employee, or agent of the United States, or any person
16 directed, controlled, or paid by any Federal law enforce-
17 ment, investigative, or intelligence agency.

18 (6) The term "intelligence investigation" means
19 any investigative activity, including the collection,
20 storage, maintenance, or dissemination of information re-
21 lating to the beliefs, opinions, associations, or lawful
22 political activity of any person, group, or organization
23 by any investigative means.

24 (7) The term "lawful political activity" means any

1 activity protected by law or regulation or by the Con-
2 stitution.

3 (8) The term "mail cover" means a procedure in-
4 itiated at the request of a law enforcement authority by
5 which a systematic record or inspection is made of any
6 data appearing on the outside cover of any mail matter,
7 including the name and address of the sender, the place
8 and date of postmarking, and the class of mail.

9 (9) The term "covert surveillance technique" means
10 any means for gathering information about a person
11 without his knowledge, including pretext inquiries, trash
12 covers, and other techniques that do not require a judicial
13 order to be used in an investigation.

14 (10) The term "probable cause" means facts with-
15 in the possession or knowledge of a person that when
16 taken together would convince a reasonable person that
17 a specific criminal act has been committed, is being com-
18 mitted, or is about to be committed.

19 (11) The term "cable" means a message sent by
20 common carrier by any mechanical device from one
21 person to another.

22 (12) The term "preventive action" means any
23 effort to disrupt, discredit, or harass any person, includ-
24 ing the dissemination of derogatory, false, or unat-

1 tributed information about such person, any attempt to
2 provoke violence or dissension between any persons,
3 the use of agents provocateurs, interference with the
4 political or judicial process, and any criminal act directed
5 against any person.

6 (13) The term "selective investigation or prosecu-
7 tion" means the conduct of investigations or prosecutions
8 against a particular class of persons together with a fail-
9 ure to investigate or prosecute on a comparable basis
10 other persons similarly situated in the population.

11 (14) The term "intrusive surveillance technique"
12 means any investigative technique that is prohibited or
13 subject to a warrant procedure under this title.

14 (15) The term "reasonable suspicion" means spe-
15 cific and articulable facts which, taken together with
16 rational inferences from those facts, give rise to a
17 reasonable suspicion that specified activity has occurred,
18 is occurring, or is about to occur.

19 TITLE III—REMEDIES

20 PART A—REPEAL OF CERTAIN LAWS ABRIDGING

21 FREEDOM OF SPEECH

22 RIOT ACT

23 SEC. 301. (a) Chapter 102 of title 18, United States
24 Code, relating to riots, is repealed.

25 (b) The tables of chapters at the beginning of title 18,

1 United States Code, and of part I of such title are amended
2 by striking out the item relating to chapter 102.

3 CERTAIN TREASON, SEDITION, AND SUBVERSIVE

4 ACTIVITIES CRIMES

5 SEC. 302. (a) The following sections of chapter 115
6 of title 18, United States Code, are repealed:

7 (1) section 2384, relating to seditious conspiracy;

8 (2) section 2385, relating to advocating the over-
9 throw of the Government;

10 (3) section 2386, relating to registration of certain
11 organizations;

12 (4) section 2387, relating to certain activities affect-
13 ing the Armed Forces generally; and

14 (5) section 2391, relating to the temporary ex-
15 tension of section 2388, providing criminal penalties for
16 certain activities affecting the Armed Forces during war.

17 (b) The table of sections for chapter 115 of title 18,
18 United States Code, is amended by striking out the items
19 relating to sections 2384, 2385, 2386, 2387, and 2391.

20 AUTHORITY OF ATTORNEY GENERAL TO DEFINE

21 DOMESTIC INTELLIGENCE ACTIVITIES

22 SEC. 303. Section 533 of title 28, United States Code,
23 is amended by inserting "and" at the end of paragraph
24 (1), striking out "; and" and the end of paragraph (2)

1 and inserting in lieu thereof a period, and striking out
2 paragraph (3).

3 ELECTRONIC SURVEILLANCE PROHIBITED

4 SEC. 304. (a) Section 2510 (4) of title 18, United
5 States Code, is amended to read as follows:

6 " (4) 'intercept' means any acquisition of the con-
7 tents of any wire, radio, cable, or oral communication
8 or message through the use of any electronic, me-
9 chanical, or other device."

10 (b) (1) Sections 2511 (2) (c), 2511 (2) (d), 2512
11 (2), 2515, 2516, 2517, and 2518 of title 18, United States
12 Code, are repealed.

13 (2) (A) Section 2512 of title 18, United States Code,
14 is amended by striking out " (1) " before "Except".

15 (B) The table of sections for chapter 119 of title 18,
16 United States Code, is amended by striking out the items
17 relating to sections 2515, 2516, 2517, and 2518.

18 PART B—ESTABLISHMENT OF CRIMES RELATING TO
19 INTELLIGENCE ABUSES

20 VIOLATIONS OF INTELLIGENCE AGENCY RESTRICTIONS

21 SEC. 311. Whoever, being an officer or employee of the
22 United States or any department or agency thereof, violates
23 any prohibition of this Act shall be fined not more than
24 \$10,000 or imprisoned not more than five years, or both,
25 and shall be removed from office or employment and be

1 incapable of holding any office or employment under the
2 United States.

3 SEARCHES WITHOUT WARRANTS

4 SEC. 312. Section 2236 of title 18, United States Code,
5 is amended to read as follows:

6 **“§ 2236. Searches without warrant**

7 “(a) Whoever, being an officer, agent, or employee of
8 the United States or any department or agency thereof
9 willfully—

10 “(1) searches any private dwelling used and occu-
11 pied as such dwelling or a business or any other building
12 or property without a judicial order issued in accord-
13 ance with sections 206 and 207 of the Omnibus Intelli-
14 gence Community Reorganization and Reform Act of
15 1977 and the Federal Rules of Criminal Procedure based
16 on probable cause that evidence of criminal activity
17 will be obtained thereby;

18 “(2) opens any mail or reads any cable not directed
19 to him without a judicial order issued in accordance
20 with sections 206 and 207 of the Omnibus Intelligence
21 Community Reorganization and Reform Act of 1977 or
22 without the consent of the sender or addressee of such
23 mail or cable in violation of section 3623 (d) of title 39;

24 “(3) inspects or procures tax, telephone, bank,
25 credit, medical or business records without a subpoena or

1 judicial order issued in accordance with sections 206
2 and 207 of the Omnibus Intelligence Community Re-
3 organization and Reform Act of 1977 upon probable
4 cause to believe such records contain evidence of crim-
5 inal activity;

6 “(4) places under surveillance by means of an in-
7 formant any persons without a judicial order issued in
8 accordance with sections 206 and 207 of the Omnibus
9 Intelligence Community Reorganization and Reform
10 Act of 1977 upon probable cause to believe that evi-
11 dence of criminal activity will be obtained thereby; or

12 “(5) conducts a mail cover without a warrant
13 issued pursuant to the Federal Rules of Criminal Pro-
14 cedure based on reasonable suspicion that evidence of
15 criminal activity will be obtained thereby or without the
16 consent of the sender or addressee;

17 shall be fined not more than \$10,000 or imprisoned not
18 more than one year, or both.

19 “(b) The provisions of subsection (a) (1) shall not
20 apply to any person—

21 “(1) serving a warrant of arrest;

22 “(2) arresting or attempting to arrest a person
23 committing or attempting to commit an offense in his
24 presence; or

1 “(3) making a search at the request or invitation
2 or with the consent of the occupant of the premises.”.

3 **MISREPRESENTATION OF MEMBERSHIP IN POLITICAL**
4 **GROUPS**

5 SEC. 313. Whoever, being an officer, agent, or employee
6 of the United States or any department or agency thereof,
7 willfully poses or acts as a member or associate of a group
8 engaged in the exercise of first amendment rights for pur-
9 poses of covert surveillance of such group or who willfully
10 directs or knowingly permits an informant to pose or act as
11 a member or associate of a group engaged in the exercise of
12 first amendment rights for purposes of covert surveillance of
13 such group shall be fined not more than \$10,000 or im-
14 prisoned not more than one year, or both.

15 **ASSASSINATIONS**

16 SEC. 314. (a) Chapter 45 of title 18, United States
17 Code (relating to foreign relations), is amended by adding
18 at the end thereof the following new section:

19 **“§ 971. Willful killing while engaged in intelligence ac-**
20 **tivities**

21 “Whoever, while engaged in the duties of a foreign in-
22 telligence activity of the Government of the United States,
23 willfully kills any person shall be sentenced to imprisonment
24 for life.”.

1 (b) The table of sections for chapter 45 of title 18,
2 United States Code, is amended by adding at the end
3 thereof the following new item:

“971. Willful killing while engaged in intelligence activities.”.

4 **DRUG EXPERIMENTATION WITHOUT PRIOR CONSENT**

5 SEC. 315. (a) Chapter 93 of title 18, United States
6 Code (relating to public officers and employees), is amended
7 by adding at the end thereof the following new section:

8 **“§ 1924. Administering drugs for experimental purposes**
9 **without prior informed consent**

10 “Whoever, being an officer or employee of the Central
11 Intelligence Agency or of any intelligence component of
12 the Department of Defense or the Armed Forces of the
13 United States, in the course of his employment or duties,
14 administers any drug to any person for experimental reasons
15 shall, if such person has not given prior written consent to
16 the taking of such drug after being informed of all possible
17 effects of such drug which can reasonably be anticipated, be
18 fined not more than \$10,000, or imprisoned not more than
19 ten years, or both.”.

20 (b) The table of sections for chapter 93 of title 18,
21 United States Code, is amended by adding at the end thereof
22 the following new item:

“1924. Administering drugs for experimental purposes without prior
informed consent.”.

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1 WRONGFUL AGENCY DISCIPLINARY ACTION

2 SEC. 316. (a) Chapter 93 of title 18, United States
3 Code (relating to public officers and employees), as
4 amended by section 315, is further amended by adding at
5 the end thereof the following new section:

6 **“§ 1925. Wrongful agency disciplinary action**

7 “(a) Whoever, being an officer or employee of the
8 United States, or any department or agency thereof, takes
9 any disciplinary action, or threatens to take any disciplinary
10 action, against any individual subject to disciplinary action
11 by such officer or employee because such individual—

12 “(1) disclosed any information or expressed any
13 opinion or judgment with respect to the conduct or
14 operation of any agency of the United States;

15 “(2) refused to participate in any official activity
16 which such individual reasonably believed to be in
17 violation of the Constitution, any treaty, any statute
18 of the United States or any State or subdivision thereof,
19 or any rule, regulation, or order promulgated by any
20 authority of the United States or to constitute mal-
21 feasance, misfeasance, or nonfeasance in office; or

22 “(3) responded to any request or direction by Con-
23 gress, either House of Congress, or a committee or sub-
24 committee of either House of Congress or of both
25 Houses,

1 shall be fined not more than \$10,000 or imprisoned not
2 more than two years, or both, and shall be removed from
3 office or employment and be incapable of holding any office
4 or employment under the United States.

5 “(b) Subsection (a) shall not apply to any disciplinary
6 action taken because a particular disclosure of information
7 or statement or representation of fact was made with knowl-
8 edge that such information, statement, or representation
9 was false, that such disclosure, statement, or representation
10 constituted a crime, or that such disclosure, statement, or
11 representation constituted a clearly unwarranted invasion of
12 privacy of any individual.

13 “(c) For purposes of this section, the term ‘disciplinary
14 action’ means dismissal, demotion, transfer, suspension, or
15 reprimand.”.

16 (b) The table of sections at the beginning of chapter 93
17 of title 18, United States Code, is amended by adding at
18 the end thereof the following new item:

“1925. Wrongful agency disciplinary action.”.

19 PART C—SPECIAL PROSECUTOR

20 SPECIAL PROSECUTOR FOR INTELLIGENCE CRIMES

21 SEC. 321. (a) (1) Part III of title 28, United States
22 Code (relating to court officers and employees), is amended
23 by adding after chapter 57 the following new chapter:

1 **"Chapter 59.—SPECIAL PROSECUTOR FOR INTEL-**
2 **LIGENCE CRIMES**

"Sec.

"1051. Establishment of Office.

"1052. Authority of Special Prosecutor.

"1053. Appointment of Special Prosecutor.

"1054. Administrative provisions.

"1055. Removal of Special Prosecutor.

"1056. Congressional Oversight.

3 **"§ 1051. Establishment of Office**

4 "There is established as an independent office in the
5 Department of Justice an Office of the Special Prosecutor
6 for Intelligence Crimes (hereinafter in this chapter referred
7 to as the 'Office'). The Office shall be headed by a Special
8 Prosecutor for Intelligence Crimes (hereinafter in this chap-
9 ter referred to as the 'Special Prosecutor'), who shall be
10 appointed in accordance with the provisions of section 1053.

11 **"§ 1052. Authority of Special Prosecutor**

12 "(a) The Special Prosecutor shall have exclusive and
13 independent jurisdiction to investigate and prosecute in the
14 name of the United States all offenses against the United
15 States committed by any officer or employee of the United
16 States or any department or agency thereof in connection
17 with or arising out of any intelligence or counterintelligence
18 activity conducted in violation of any provision of the Omni-
19 bus Intelligence Community Reorganization and Reform Act
20 of 1977.

1 “(b) Notwithstanding any other provision of law, the
2 Special Prosecutor shall have, with respect to all matters
3 with the prosecutorial jurisdiction of the Special Prosecutor
4 as established by subsection (a), all investigative and pros-
5 ecutorial functions and powers of the Attorney General
6 and shall not be subject to the direction of the Attorney
7 General in the exercise of such functions and powers.

8 **“§ 1053. Appointment of Special Prosecutor**

9 “The Special Prosecutor shall be appointed by a panel
10 of three judges designated for such purpose by the chief
11 judge of the United States Court of Appeals for the Dis-
12 trict of Columbia Circuit from among active and senior-
13 status circuit judges and district judges in the District of
14 Columbia Circuit.

15 **“§ 1954. Administrative provisions**

16 “(a) The Special Prosecutor shall receive compensa-
17 tion at a rate equal to the rate of basic pay in effect for level
18 IV of the Executive Schedule under section 5315 of title 5,
19 United States Code.

20 “(b) For the purpose of carrying out the duties of the
21 office of Special Prosecutor, the Special Prosecutor may
22 appoint, fix the compensation of and assign the duties of,
23 such employees as the Special Prosecutor considers necessary
24 (including investigators and attorneys). The positions of
25 all such employees are exempted from the competitive serv-

1 ice. No such employee may be compensated at a rate ex-
2 ceeding the maximum rate provided for GS-18 of the Gen-
3 eral Schedule under section 5332 of title 5, United States
4 Code.

5 “(c) The Special Prosecutor may procure the services
6 of experts and consultants, as authorized by section 3109
7 of title 5, United States Code, at rates not to exceed the per
8 diem equivalent of the rate for GS-18 of the General Sched-
9 ule established by section 5332 of title 5, United States
10 Code.

11 “(d) Each department and agency of the Federal Gov-
12 ernment and of the government of the District of Columbia
13 is authorized to make available to the Special Prosecutor,
14 on a reimbursable basis, any personnel the Special Prosecutor
15 may request. Requested personnel shall be detailed within
16 one week after the date of the request unless the Special
17 Prosecutor designates a later date. An individual's position
18 and grade in a department or agency shall not be prejudiced
19 by being detailed to the Special Prosecutor without the
20 individual's consent.

21 “(e) All files, records, documents, and other materials
22 in the possession or control of the Department of Justice,
23 any previous Special Prosecutor, or any other department
24 or agency of Government, which relate to matters within the
25 exclusive jurisdiction of the Special Prosecutor appointed

1 under this chapter are transferred to the Special Prosecutor
2 as of the date on which the Special Prosecutor takes office.

3 “(f) The Special Prosecutor is authorized to request
4 from any department or agency of Government any addi-
5 tional files, records, documents, or other materials which
6 the Special Prosecutor may deem necessary or appropriate
7 to the conduct of any duties, functions, and responsibilities
8 under this chapter and each department or agency shall
9 furnish such materials to the Special Prosecutor expedi-
10 tiously, unless a court of competent jurisdiction shall order
11 otherwise.

12 “(g) The Special Prosecutor shall keep safeguarded
13 from unwarranted disclosure all files, records, documents,
14 physical evidence, and other materials obtained or pre-
15 pared by the Office of Special Prosecutor.

16 **“§ 1055. Removal of Special Prosecutor**

17 “The Special Prosecutor may be removed from office,
18 other than by impeachment and conviction, only by the
19 United States Court of Appeals for the District of Columbia
20 Circuit and only for extraordinary impropriety or such
21 incapacitation as substantially impairs the performance of
22 the duties of the Special Prosecutor.

23 **“§ 1056. Congressional oversight**

24 “(a) The Special Prosecutor shall submit to the Con-
25 gress, not less than annually, a report describing the work of
26 the Office and shall include in the report information con-

cerning the type and number of cases which are or have been investigated by the Office; the disposition of all cases investigated by the Office; the reasons for the nonprosecution of any matter within the prosecutorial jurisdiction of the Special Prosecutor; and any other information which the Special Prosecutor or the Congress considers relevant.

“(b) A report prepared under subsection (a) shall be made public within sixty days of its submission to the Congress unless public disclosure is limited by an order of a court to protect the rights of any individual named in the report or to prevent undue interference with any pending prosecution.

“(c) The Special Prosecutor shall, where appropriate, promptly advise, in writing, the chairman and ranking minority member of the House committee having jurisdiction over impeachments, of any substantial and credible information which such Special Prosecutor receives that may constitute grounds for an impeachment. Nothing in this chapter shall prevent the Congress or either House thereof from obtaining information in the course of an impeachment proceeding.

“(d) The Judiciary Committees of the Senate and House of Representatives shall have oversight jurisdiction over the conduct of the Special Prosecutor. It shall be the duty of the Special Prosecutor to cooperate fully with any exercise of such oversight jurisdiction.”.

1 (2) (A) The table of chapters at the beginning of
2 title 28, United States Code, is amended by inserting after
3 the item relating to chapter 57 the following new item:

"59. Special Prosecutor for Intelligence Crimes----- 1051".

4 (B) The table of chapters at the beginning of part
5 III of such title is amended by adding at the end thereof
6 the following new item:

"59. Special Prosecutor for Intelligence Crimes----- 1051".

7 (b) The first appointment of a Special Prosecutor for
8 Intelligence Crimes under section 1053 of title 28, United
9 States Code, as added by subsection (a) of the section, shall
10 be made not later than the end of the sixty-day period begin-
11 ning on the date of enactment of this Act.

12 PART D—CIVIL REMEDIES

13 CAUSE OF ACTION

14 SEC. 331. (a) Any Federal official who, acting under
15 color of law, subjects any individual to the deprivation of any
16 right, privilege, or immunity guaranteed by the Constitution
17 or by this Act shall be liable to such individual in the greater
18 of—

19 (1) the amount of actual and general damages
20 resulting from such deprivation; or

21 (2) \$250 for each day of each such deprivation or
22 \$2,500, whichever is greater.

23 In addition, punitive damages may be awarded where
24 appropriate.

1 (b) Any award of damages to a plaintiff under sub-
2 section (a) shall be reduced by the amount of any award of
3 damages to the same plaintiff in an action against the United
4 States under section 332 which arose from the same conduct
5 which was the basis for the cause of action under subsection
6 (a).

7 LIABILITY OF UNITED STATES; RIGHT OF SUBROGATION

8 SEC. 332. (a) The United States shall be liable to any
9 individual who is subjected by any Federal official acting
10 under color of law to any deprivation of any right, privilege,
11 or immunity guaranteed by the Constitution or by this Act.
12 Any such liability shall be in the amount prescribed in sec-
13 tion 331 (a), but shall be reduced by any amount awarded
14 such individual in an action under section 331 arising from
15 the same conduct which was the basis for the cause of action
16 under this section.

17 (b) Whenever the United States incurs any liability
18 under subsection (a), the United States shall have a right of
19 subrogation against the Federal official whose conduct was
20 the basis for such liability in the amount of the damages paid
21 by it under such subsection plus the amount of any attorneys'
22 fees and costs paid by it under section 336 in connection with
23 the same action.

24 JURISDICTION AND VENUE

25 SEC. 333. (a) The district courts of the United States
26 shall have jurisdiction over any action brought under this

1 part, without regard to the amount in controversy, the citizen-
2 ship of the parties, or the availability of administrative
3 remedies.

4 (b) Any action under this part may be brought in the
5 District of Columbia or in the judicial district where any
6 plaintiff resides or where the cause of action arose.

7 (c) The summons and complaint in an action brought
8 under this part shall be served as provided by the Federal
9 Rules of Civil Procedure, except that delivery of the summons
10 and complaint to the Federal official and agency involved
11 may be made in person or by certified mail beyond the ter-
12 ritorial limits of the district in which the action is brought.
13 Delivery of the summons and complaint shall be made in
14 person upon an individual defendant who is not a Federal of-
15 ficial at the time the action is commenced.

16 EQUITABLE RELIEF

17 SEC. 334. In any action brought under this part, the
18 court may, in accordance with the Federal Rules of Civil
19 Procedure, grant appropriate equitable relief.

20 STATUTE OF LIMITATION

21 SEC. 335. No action may be brought under this part
22 more than two years after the plaintiff first discovers that
23 a cause of action has arisen.

24 ATTORNEYS' FEES AND COSTS

25 SEC. 336. (a) In any action brought under this part
26 in which the plaintiff substantially prevails, the court shall
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1 grant to such plaintiff reasonable attorneys' fees and other
2 costs of the litigation, including court costs, in addition
3 to any award of money damages to such plaintiff.

4 (b) The United States shall indemnify any successful
5 individual defendant in an action brought under this part
6 for the reasonable attorneys' fees and litigation costs in-
7 curred by such defendant in defending such action.

8 WAIVER OF SOVEREIGN IMMUNITY AND DEFENSE OF

9 GOOD FAITH

10 SEC. 337. (a) The immunity of the United States to
11 actions for damages, and any immunity of any Federal of-
12 ficial to actions for damages by virtue of such official's
13 office is hereby waived for purposes of any action brought
14 under this part.

15 (b) In any action brought under this part the United
16 States shall not on its behalf raise a defense that the actions
17 complained of were carried out by the official involved in
18 good faith and were within the official scope of the duties
19 of such official.

20 DEFINITIONS

21 SEC. 338. For purposes of this part:

22 (1) The term "Federal official" means any officer,
23 agent, or employee of the United States or of any de-
24 partment or agency thereof.

25 (2) The term "agency" means any Executive

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- 1 agency, as such term is defined in section 105 of title 5,
- 2 United States Code, and any military department.

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